

SUBDIVISION ORDINANCE

Prepared for the

TOWN OF HAMPDEN, MAINE

By

**PENOBSCOT VALLEY REGIONAL PLANNING COMMISSION
FEBRUARY 1982**

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CERTIFIED BY: *Paula A. Scott*
Paula Scott, Town Clerk

Affix Seal

**TOWN OF HAMPDEN, MAINE
SUBDIVISION ORDINANCE**

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**ARTICLE 100
DECLARATION OF PURPOSE**

The purpose of these standards shall be to assure the comfort, convenience, safety, health, and welfare of the people, to protect the environment, to promote the development of an economically sound and stable community, and to uphold the state Subdivision Law (MRSA) Title 30, Section 4956). This ordinance establishes separate and distinct construction standards and maintenance practices for Public Streets and Private Streets. *(Amended 07-06-16)*

**ARTICLE 200
AUTHORITY AND ADMINISTRATION**

210. Authority - This Ordinance is enacted pursuant to and consistent with Title 30 MRSA Section 4956; the Subdivision Law.

220. Administration and Enforcement

221. This Ordinance shall be known and may be cited as the "Subdivision Ordinance of the Town of Hampden, Maine."

222. The Planning Board of the Town of Hampden, with the assistance of the code enforcement officer and the Town Manager (as specified in the ordinance) shall administer this Ordinance.

223. The provisions of this Ordinance shall pertain to all land proposed for subdivision as herein defined within the boundaries of the Town of Hampden.

224. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the Hampden Planning Board and recorded in the Penobscot County registry of deeds, nor shall such person, firm, corporation or other legal entity sell or convey any land in such approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes but is not limited to the following: a granite monument, a concrete monument, an iron pin or a drill hole in ledge. No subdivision plat or plan shall be recorded by the register of deeds which has not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision for which a plan has not been approved.

225. The Hampden Planning Board, the Town Council of the Town of Hampden, the code enforcement officer, or the Town of Hampden may institute proceedings to enjoin any violations of this Ordinance, and if a violation is found in court, the Town of Hampden may be allowed attorney fees.

226. Any person, firm, or corporation or other legal entity found guilty of a violation of this Ordinance shall be punished by a fine of not more than one thousand dollars (\$1,000) for each such occurrence.

ARTICLE 300
PROCEDURES FOR SUBDIVISION REVIEW

310. Introduction – At the subdivider's option, an application for subdivision approval may propose one or more Public Streets, one or more Private Streets, or a combination thereof. Proposed subdivisions that include one or more Public Streets shall be reviewed under the procedures set forth in section 320 and section 330, inclusive. Proposed Private Street Subdivisions shall be exempt from section 320 and 330, inclusive, and shall be reviewed under the procedures set forth in section 345. *(Amended 07-06-16)*

The subdivider's application for subdivision approval will not be considered complete until a Final Plan, including all required information, has been submitted to the Planning Board. While the subdivider may submit the Final Plan and all related materials to the Planning Board without any prior contact with the board, the subdivider is encouraged to follow the procedures outlined in this Ordinance. The procedures herein outlined are designed to prevent problems related to the statutory time limits for reviewing complete applications and to provide opportunity for a dialogue between the Planning Board and the subdivider so that the approved subdivision will be designed and built in a manner that fulfills the purpose of this ordinance.

320. Preapplication Meeting and Submission of a Sketch Plan

321. The subdivider shall submit at least twelve (12) copies of a sketch plan and application to the code enforcement officer at least fifteen (15) days in advance of the regularly scheduled meeting at which she/he wishes it to be considered. The subdivider or his/her authorized agent shall be present at the meeting to discuss the proposal with the Planning Board.

322. The purposes of this preapplication conference between the subdivider and the Planning Board are:

1. To classify the subdivision as a major or a minor subdivision.
2. To provide an opportunity for the subdivider and the Planning Board to informally review the subdivider's ideas for use of the land;
3. To discuss procedures for subdivision review and approval;
4. If road construction is involved in the proposal, to classify the road as either minor or collector;
5. To discuss any apparent potential problems associated with the subdivision; and
6. To arrange for on-site inspection of the subdivision site.

323. The sketch plan shall consist of an outline of the proposed subdivision, drawn on a map drawn to scale, showing the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch. Accompanying the sketch plan shall be a written application which includes a description of existing covenants and easements and zoning; medium intensity soils survey information (obtainable from the Penobscot County Soil Conservation Service); information about available community facilities and utilities on or near the site; information describing the subdivision proposal including the number of residential lots, typical lot width, and depth, plans regarding sewer and water service and road construction; and any proposed nonresidential areas. An application form, available at the town office, shall be used to submit the written information.

324. Other than the classification of the subdivision and the roads, if necessary, no binding commitments shall be made between the subdivider and the board at this stage.

325. The Planning Board shall act on the sketch plan within forty-five (45) days of the time it is submitted and shall notify the subdivider of its action in writing, within fifteen (15) days of its action.

326. Inspection of the site. In order for the Planning Board to be more fully informed about the site, the subdivider shall arrange an inspection of the site with the code enforcement officer and the Planning Board or an individual appointed by the chairman to act as the board's representative for the inspection. The on-site inspection must be considered the next step in the subdivision review process.

330. Review of Major Subdivision

331. Preliminary Plan

331.1. *Purpose* - The purpose of Preliminary Plan review is to give the Planning Board an opportunity to review the subdivider's proposal while it is in the planning stage and to make recommendations to the subdivider as seem appropriate based on state and local laws and regulations. The intent is that all major issues relative to the subdivision will be identified and resolved prior to the submission of the Final Plan.

331.2. Procedure

1. Within six (6) months after classification of the sketch plan as a major subdivision by the Planning Board, the subdivider shall submit an application for the consideration of a Preliminary Plan for a major subdivision. The Preliminary Plan shall substantially conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.
2. The application for approval of the Preliminary Plan shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance, payable by check to the Town of Hampden, Maine. *(Amended: 06-06-88, 11-17-03)*
3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.
4. The time of submission of the Preliminary Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least forty-five (45) days prior to which fifteen (15) copies of the application for Preliminary Plan approval, complete and accompanied by the required fee and all data required by section 331.3 of this Ordinance shall have been filed with the code enforcement officer. *(Amended: 10-05-87)*
5. A public hearing shall be held by the Planning Board at the time of submission of the preliminary subdivision plan. Said hearing shall be advertised in a newspaper of general circulation in the town at least ten (10) days prior to the hearing. A notice of said hearing shall be mailed to each land owner abutting the proposed development and to each landowner within three hundred (300) feet of the property line of the proposed development. Landowners shall be considered to be those against whom property taxes are

assessed. Failure of any landowner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Planning Board. Responsibility for such notification shall be assumed by the code enforcement officer. The applicant shall bear all associated costs of advertisements and notifications. If site plan review is required it shall be combined with this hearing. (Amended: 05-07-84)

6. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public and the Town Council relative to any municipal ordinance, standard, or regulation which is applicable to the proposed subdivision and relative to the relationship of the subdivision to the ordinance, standard, or regulation.
7. Within thirty (30) days after the public hearing, the Planning Board shall take action to give preliminary approval, with or without modifications, or to disapprove such Preliminary Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within thirty (30) days of the public hearing shall constitute approval of the Preliminary Plan.
8. When granting approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to:
 - A. The specific changes which it will require in the Final Plan;
 - B. Specific information which is over and above that required in section 332.2 of this Ordinance which will be required in the Final Plan review (such additional information must be reasonably related to the review of the subdivision);
 - C. The character and extent of the required improvements for which waivers have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare.
9. Approval of a Preliminary Plan shall not constitute approval of the Final Plan but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any.

331.3. *Submissions* - The preliminary subdivision plan shall be submitted, in the appropriate number of copies, which may be either printed or reproduced on paper. The Preliminary Plan shall be not less than eight and one-half (8-1/2) inches by eleven (11) inches and not more than forty-eight (48) inches by thirty-six (36) inches. The plan shall be drawn to a scale in which one inch equals no more than one hundred (100) feet and shall be oriented so the north direction is the same on all sheets. The Preliminary Plan and supporting data shall include the following information.

331.3.1. *Information About the Applicant*

- | | |
|-----------------------|---|
| <i>map & text</i> | 1. Name of owner indicated on the map plan and in accompanying written information. |
| <i>map & text</i> | 2. Name of applicant (if other than owner) indicated on the map plan and in accompanying written information. |

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|-----------------------|--|
| <i>text</i> | 3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of secretary of state's registration in accompanying written information. |
| <i>text</i> | 4. Name of applicant's authorized representative in accompanying written information. |
| <i>map & text</i> | 5. Name, address, and number of registered professional engineer or land surveyor indicated on the map plan and in accompanying written information. |
| <i>text</i> | 6. Address to which all correspondence from the Planning Board should be sent in accompanying written information. |
| <i>text</i> | 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.) in accompanying written information? |
| <i>text</i> | 8. What interest does applicant have in any property abutting parcel to be subdivided in accompanying written information? |
| <i>text</i> | 9. State whether preliminary plat plan covers entire, contiguous holdings of applicant or not in accompanying written information. |

331.3.2. Information About the Parcel to be Subdivided

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|-----------------------|---|
| <i>text</i> | 1. Location of property: Book and page (from register of deeds) in accompanying written information. |
| <i>text</i> | 2. Location of property: Map and lot (from assessor's office) in accompanying written information. |
| <i>map</i> | 3. Map survey of tract to be subdivided, certified by a registered land surveyor, tied to established reference points (attach to application) indicated on the map plan. |
| <i>map & text</i> | 4. Current zoning of property indicated on the map plan and in accompanying written information. |
| <i>text</i> | 5. Acreage of parcel to be subdivided in accompanying written information. |
| <i>map & text</i> | 6. A soils report, identifying soil types and location of soil test areas indicated on the map plan. Evidence of soil suitability according to the Maine State Plumbing Code shall be presented if subsurface sewage disposal is proposed. There shall be at least one (1) soil test per lot if subsurface sewage disposal is proposed. |
| <i>map</i> | 7. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided indicated on the map plan. |
| <i>map & text</i> | 8. Indicate the nature of any restrictive covenants to be placed on the deeds indicated on the map plan and in accompanying written information. |

331.3.3. Information About the Subdivision

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|-----------------------|---|
| <i>map & text</i> | 1. Proposed name of subdivision indicated on the map plan and in accompanying written information. |
| <i>map & text</i> | 2. Number of lots and lot sizes indicated on the map plan and in accompanying written information. |
| <i>map</i> | 3. Date, north point, graphic map scale indicated on the map plan. |
| <i>map</i> | 4. Proposed lot lines with approximate dimensions and suggested locations of buildings, subsurface sewage disposal systems, and wells indicated on the map plan. |
| <i>map & text</i> | 5. Location of all parcels to be dedicated to public use and the conditions of such dedication indicated on the map plan and in accompanying written information. |
| <i>map</i> | 6. A location map, drawn at a scale in which one (1) inch equals no more than five hundred (500) feet, showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area indicated on the map plan. The location map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision (attach to application). |
| <i>map</i> | 7. Location and size of significant existing physical features including but not limited to wetlands, floodplains, watercourse, rock outcrops and trees of twelve-inch caliper diameter at chest height indicated on the map plan. |
| <i>map</i> | 8. Location and size of any existing sewers, watermain, culverts and drains on the property indicated on the map plan. |
| <i>map</i> | 9. Location, names and widths of existing and proposed streets, highways, easements, building setback lines, parks and other open spaces indicated on the map plan. |
| <i>map</i> | 10. Contour lines at an interval of not more than two (2) feet in elevation, unless otherwise specified by the Planning Board indicated on the map plan. All elevations shall be referred to USGS datum. |
| <i>map</i> | 11. Typical cross-sections of proposed grading for roadways and sidewalks, including materials to be used on roadways and sidewalks indicated on the map plan. |
| <i>map</i> | 12. Storm drainage plan indicating the approximate location and size of proposed lines, catch basins and means of disposal indicated on the map plan. |
| <i>map</i> | 13. The approximate location and size of all proposed water and sewer lines, valves, pump stations and hydrants. Also connections to existing sewer and water systems or alternative methods of water supply and sewage disposal shall be shown indicated on the map plan. |
| <i>map</i> | 14. Location of all other existing and proposed utilities such as electricity and telephone indicated on the map plan. |

map

15. Location and type of landscaping including natural growth to be left in place and nursery stock to be planted indicated on the map plan. This information may be indicated on a Preliminary Plan print.

map

16. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale in which one (1) inch equals not more than five hundred (500) feet showing an outline of the subdivided area with its proposed streets and an indication of the probable future street system in the remaining portion of the tract indicated on the map plan. The part of the subdivider's holding submitted, shall be considered in light of the entire holding.

map

17. If the preliminary application covers more area than the Final Plan will cover, a map showing the phasing of the entire project, drawn at a scale in which one inch equals not more than five hundred (500) feet and indicating the proposed timing of each phase indicated on the map plan.

332. *Final Plan*

332.1. *Procedure*

1. Within six (6) months of the date of Planning Board action on the Preliminary Plan, the subdivider shall submit the Final Plan to the Planning Board. Failure to submit the Final Plan within the designated time period shall require resubmission of the Preliminary Plan to the Planning Board. However, the subdivider may submit a Final Plan for only part of the subdivision approved in the Preliminary Plan. In that case, each successive phase shall be submitted within three (3) years of the date of approval of the preceding phase. The Final Plan shall consist of two (2) original transparencies of all maps or drawings and fifteen (15) copies of all items necessary to complete the submission. *(Amended: 10-05-87)*
2. The application for approval of the Final Plan shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance. The cost of the following improvements shall be included in the calculation of cost: sewer, storm drainage, and/or street work. The subdivider shall be responsible for providing the Town Manager with an estimate of construction cost, prepared by an engineer acceptable to the Town Manager. The Town Manager shall be responsible for certifying the acceptability of the estimate. *(Amended: 06-06-88, 11-17-03)*
3. The subdivider, or his duly authorized representative shall attend the meeting of the Planning Board to discuss the Final Plan.
4. The time of submission of the Final Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least forty-five (45) days prior to which the complete application, accompanied by the required fee, shall have been filed with the code enforcement officer. The Planning Board shall issue the subdivider a dated receipt for the Final Plan at the time of submission of the Final Plan. *(Amended: 10-05-87)*
5. Within thirty (30) days from receipt of a Final Plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the subdivider and begin its full evaluation of the proposed subdivision.
6. Prior to submitting the Final Plan, the subdivider shall file an improvement guarantee with the Town Manager. The purpose of the guarantee is to insure that all required subdivision improvements shall be satisfactorily completed. The amount and form of the guarantee shall be that defined under Article 400 of this Ordinance.
7. *Public hearing* - The board may vote to hold a public hearing on the proposed subdivision. If so, such hearing shall be held within thirty (30) days of having received a complete Final Plan (as determined under section 332.1 item 5.). The manner described in section 331.2 item 5 of this Ordinance. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the ordinance, standard, or regulation.
8. *Review and Action on Final Plan* - The board shall, within thirty (30) days of a public hearing; or within sixty (60) days of having received a complete application, if no public

hearing is held; or within such other time limit as may be mutually agreed to by the board and the subdivider, review the application and deny or grant approval of the proposed subdivision, or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and state law and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the state subdivision law.

9. Upon approval of the plan, at least a majority of the board members present and eligible to vote shall sign both transparencies. The date and any conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the registry of deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action with respect to the Final Plan.
10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan unless the plan is first resubmitted to the Planning Board and the board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void, and the board shall institute proceedings to have the plan stricken from the records of the registry of deeds.
11. The subdivider shall file a signed subdivision plan at the Penobscot County registry of deeds within ninety (90) days of the approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension which shall not exceed two (2) additional ninety-day periods.

332.2. *Submissions* - The Final Plan shall be submitted in the appropriate number of paper and transparent copies. The Final Plan shall be not less than eight and one-half (8-1/2) inches by eleven (11) inches and not more than forty-eight (48) inches by thirty-six (36) inches. The plan shall be drawn at a scale in which one inch equals no more than one hundred (100) feet and shall be oriented so the north direction is the same on all sheets. In addition to all items required on the Preliminary Plan and information requested by the Planning Board during the Preliminary Plan review, the following items shall be required as part of the Final Plan submission unless otherwise indicated by the Planning Board.

- map* 1. *Registered Land Surveyor or Engineer* The name, registration number, seal and signature of the surveyor and/or engineer who prepared the plan. This information shall be on all sheets including cross-section and profile sheets also indicated on the map plan.
- map* 2. *Streets* - The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings indicated on the map plan.
- map* 3. *Street Profiles and Details* - Profiles of centerlines of proposed new streets on sheets separate from the plat, at a horizontal scale on one inch equals 40 feet and vertical scale of one inch equals four (4) feet; profiles of all proposed sewers shall be shown on street profiles, when applicable, at the same scale. All elevations shall refer to USGS datum

indicated on the map plan. Detail drawings of any construction methods required for the accommodation of utilities and street appurtenances shall be included. *(Amended: 06-19-89)*

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| <i>map</i> | 4. <i>Street Cross Section</i> - Cross section at fifty-foot horizontal intervals of proposed new streets, on sheets separate from the plan at the scale of 1 inch equals 5 feet horizontal and 5 feet vertical indicated on the map plan. <i>(Amended: 06-19-89)</i> |
| <i>map</i> | 5. <i>Sewer profiles</i> . Profile of sanitary sewer, if not shown on street profiles, on sheets separate from the plan, at the same scale indicated for street profiles indicated on the map plan. |
| <i>map</i> | 6. <i>Storm drainage plan</i> . Indicating the location and size of the proposed lines, catchbasins, underdrains, their profiles and means of disposal indicated on the map plan. |
| <i>map & text</i> | 7. <i>Open spaces</i> . The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider indicated on the map plan and in accompanying written information. If open space or recreation land is to be dedicated to the town, accompanying the plan must be a copy of the minutes of the Town Council, attested by the town clerk, in which the Town Council agrees to accept such open space or recreation land. Also accompanying the plan shall be written copies of any documents of land dedication and a letter from the town attorney that he is satisfied with the legal sufficiency of the documents conveying such land dedication. |
| <i>map</i> | 8. <i>Lots</i> - The location, bearing and length of every line, with all lots to be numbered in accordance with the property maps of the Town of Hampden indicated on the map plan. |
| <i>map</i> | 9. <i>Permanent Reference Monuments</i> - The location of permanent monuments and pins, set at all lot corners, and identified as existing or proposed indicated on the map plan. |
| <i>text</i> | 10. <i>Improvement Guarantee</i> - Accompanying the plat shall be a letter from the Town Manager indicating that the form, duration, and amount of the improvement guarantee is sufficient and that it has been filed with him in accompanying written information. |
| <i>map</i> | 11. <i>Approval Space</i> - Suitable space to record on the approved plan the date and conditions of approval, if any indicated on the map plan. This space shall be similar to the following example: |

(Additional Suggested Text)

This is to certify that after reviewing the subdivision submission information for the subdivision shown on this plan and considering each of the criteria set forth in M.R.S.A. Title 30-A, Section 4404 (as amended) and in the Hampden Subdivision Ordinance, the undersigned have made findings of fact establishing that this subdivision plan along with its additional submission information has met all the criteria set forth and therefore the subdivision is approved.

Approved: Town of Hampden Planning Board

Chairman

Date Approved: _____

Date Signed: _____

Conditions: _____

- text* 12. *Accompanying Data* - The plans shall show the proposed location of all utilities (ie. Water, sewer, electrical, telephone) with written letters from each respective utility indicating their approval for the proposed design and location as shown on the plans. Also there shall be a letter from the Fire Chief approving the number, size and location of hydrants proposed and a letter from the Town Manager indicating the Town's approval of rental charges in accompanying written information. *(Amended: 06-19-89)*
- text* 13. *Easements* - If any easements have been required by the Planning Board, title to the easement, drawn up in a form and substance acceptable to the town or the Hampden Water District if applicable) shall be provided to the town (or the Hampden Water District if applicable) by the subdivider before final approval is granted in accompanying written information.

340. *Review of Minor Subdivision*

341. *General* - The Planning Board may require, in advance, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision or a minor subdivision plan comply with all or any of the requirements specified for major subdivision or major subdivision plans.

342. *Procedure*

1. Within six (6) months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plan. The subdivision plan shall substantially conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.
2. The application for approval of a minor subdivision shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance payable by check to the Town of Hampden, Maine. *(Amended 11-17-03)*
3. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the subdivision plan.
4. The time of submission of the subdivision plan shall be considered to be the date of the regular monthly meeting of the Planning Board, at least fifteen (15) days prior to which the application, complete and accompanied by the required fee has been filed with the code enforcement officer. The Planning Board shall issue the subdivider a dated receipt for the subdivision plan at the time of submission of the subdivision plan.
5. Fifteen (15) paper copies and two (2) transparent copies of the subdivision application, containing all information required in section 343 of this Ordinance shall be submitted. *(Amended: 10-05-87)*
6. Within thirty (30) days from receipt of a subdivision plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed it shall notify the subdivider and begin its full evaluation of the proposed subdivision.

7. In the event that the Planning Board determines to hold a public hearing on the proposed subdivision, it shall hold such public hearing within thirty (30) days of having received a complete subdivision application, and shall cause notice of the date, time and place of such hearing to be given to the subdivider and to be published in a newspaper of general circulation in Hampden at least two (2) times, the date of the first publication shall be at least seven (7) days prior to the hearing. The decision to hold a public hearing is discretionary, and in making its decision the Planning Board may consider the size and location of the subdivision, its community impact, and whether any written requests for such hearing have been received.
8. The Planning Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of the time of submission, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and in Title 30, MRSA, section 4956, the state subdivision law, and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the state subdivision law.
9. Upon approval of the plan, at least a majority of the board members present and eligible to vote shall sign both transparencies. The date and conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the registry of deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action with respect to the subdivision.
10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan, unless the plan is first resubmitted to the Planning Board and the board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void and the board shall institute proceedings to have the plan stricken from the records of the registry of deeds.
11. The subdivider shall file a signed subdivision plan at the Penobscot County Registry of Deeds within ninety (90) days of the date of approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension which shall not exceed two (2) additional ninety (90) day periods.
12. If the Planning Board fails to take action within thirty (30) days of a public hearing or within sixty (60) days of the time of submission of a complete subdivision plan, if no hearing is held, or within the mutually agreed to time, as specified above, the subdivision plan shall be deemed disapproved.

343. *Submissions* - The subdivision plan of a minor subdivision shall be submitted in appropriate number of paper and stable transparent copies. The subdivision plan shall be not less than eight and one-half (8-1/2") inches by eleven (11") inches and not more than forty-eight (48") inches by thirty-six (36") inches. The plan shall be drawn at a scale in which one inch equals no more than one hundred (100') feet and shall be oriented so the north direction is the same on all sheets.

The application for approval of a minor subdivision shall include all of the following information:

343.1. *Information About the Applicant*

- | | |
|-----------------------|--|
| <i>map & text</i> | 1. Name of owner indicated on the map plan and in accompanying written info. |
| <i>map & text</i> | 2. Name of applicant (if other than owner) indicated on the map plan and in accompanying written information. |
| <i>text</i> | 3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of secretary of state's registration in accompanying written information. |
| <i>text</i> | 4. Name of applicant's authorized representative in accompanying written information. |
| <i>map</i> | 5. Name, address, seal, signature, and number of the land surveyor who prepared the plan indicated on the map plan. |
| <i>text</i> | 6. Address to which all correspondence from the Planning Board should be sent in accompanying written information. |
| <i>text</i> | 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.) in accompanying written information? |
| <i>text</i> | 8. What interest does the applicant have in any property abutting parcel to be subdivided in accompanying written information. |

343.2. *Information About the Parcel to be Subdivided*

- | | |
|-----------------------|--|
| <i>text</i> | 1. Location of property: book and page (from register of deeds) in accompanying written information. |
| <i>text</i> | 2. Location of property: map and lot (from assessor's office) in accompanying written information. |
| <i>map & text</i> | 3. Current zoning of property indicated on the map plan and in accompanying written information. Show location of zone boundaries on the parcel if any zone boundary crosses the parcel. |
| <i>text</i> | 4. Acreage of parcel to be subdivided in accompanying written information. |
| <i>map</i> | 5. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided as per tax assessor's records indicated on the map plan. |

- map & text* 6. Indicate the nature of any covenants or deed restrictions which are intended to cover all or part of the tract indicated on the map plan and in accompanying written information.

- map & text* 7. An actual field survey of the boundary lines of the parcel, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and shall be marked by permanent monuments, and shall be referenced and shown on the plan indicated on the map plan and in accompanying written information.

- map* 8. Location of any watercourses, floodplain, wetland, or unique natural features on the parcel indicated on the map plan.

343.3. *Information About the Subdivision*

- map* 1. Proposed name of subdivision indicated on the map plan.

- map & text* 2. Number of lots and lot sizes indicated on the map plan and in accompanying written information.

- map* 3. Date, north point, graphic map scale indicated on the map plan.

- map* 4. The location of permanent monuments or pins, set at all lot corners and identified as existing or proposed indicated on the map plan.

- map* 5. The location, bearing and length of every lot line with all lots to be numbered in accordance with the property maps of the Town of Hampden indicated on the map plan.

- map* 6. Suitable space to record on the approved plan the date and conditions of approval, if any. This space shall be similar to the following example:

(Additional Suggested Text)

This is to certify that after reviewing the subdivision submission information for the subdivision shown on this plan and considering each of the criteria set forth in M.R.S.A. Title 30-A, Section 4404 (as amended) and in the Hampden Subdivision Ordinance, the undersigned have made findings of fact establishing that this subdivision plan along with its additional submission information has met all the criteria set forth and therefore the subdivision is approved.

Approved: Town of Hampden Planning Board

Chairman

Date Approved: _____

Date Signed: _____

Conditions: _____

- map* 7. Soils report. A soils report, identifying soil types and location of soil test areas. If subsurface sewage disposal is to be used, evidence of soil suitability for subsurface sewage disposal as determined by the Maine Plumbing Code shall be presented. There shall be at least one soils test per lot.

- map* 8. Location and name of existing public streets and way.

345. Review of Private Street Subdivision *(Amended 07-06-16)*

346. Procedure *(Amended 07-06-16)*

1. Upon receipt of an application, the Town Planner may refer the application to the Public Works Director for review and comment prior to scheduling the application before the Planning Board.
2. The application for approval of a Private Subdivision Plan shall be accompanied by a fee paid to defray costs of inspection, plan review, administration and enforcement of this Ordinance, in accordance with the Town of Hampden Fees Ordinance, payable by check to the Town of Hampden, Maine.
3. The Public Works Director shall report in writing to the Planning Board as to whether or not the proposed private street conforms to the standards and specifications of this Ordinance. Said report may include any suggested conditions to be attached to the approval/ Permit that, in the Public Works Director's judgment, are necessary to achieve the intent of this Ordinance.
4. The Planning Board shall consider the application, the Public Works Director's report, and all other relevant information in determining whether to grant the approval of the application. If the information submitted by the applicant does not establish that the proposed private street will conform to the standards and specification of the Ordinance, the Planning Board shall not grant the approval. The Planning Board shall impose such conditions on the approval of the application as it deems necessary to achieve the intent and objectives of this Ordinance, which may include, but need to be limited to, conditions suggested by the Public Works Director. The breach of any such condition proposed by the Planning Board shall automatically invalidate the approval.
5. As a condition to the granting of any approval under this Ordinance, the Planning Board shall require that the applicant deposit with the Public Works Director a sum of money, bank letter or credit or certified check, in an amount sufficient to guarantee that the applicant shall perform the terms and conditions of the permit, including the payment of required fees. Upon completion of all improvements required by this Ordinance, any unused portion of the deposit shall be refunded to the applicant.
6. Upon receipt of the required deposit and predetermined fees and approval, the Code Enforcement Officer shall issue the Permit/Approval pursuant to the terms established by the either the Planning Board approving the application.
7. Only the Planning Board shall have the authority to approve or deny applications for a private street.

347. Submissions - Each application for a Private Street Subdivision shall be accompanied by completed plans labeled "plan of a private way" prepared and sealed by civil engineer or land surveyor registered in the State of Maine, which include information contained herein. Where the required information is incorporated in the overall site plan of a development, separate road plans shall not be required. *(Amended 07-06-16)*

The application and plans for a Private Street shall include all of the following information:

1. An approval block for the signatures of the board members. A copy of the signed standard boundary survey of the roadway shall be included in the documentation.
2. The names and addresses of the lot or parcel owners to be served by the Private Street.
3. A vicinity map of a minimum scale of one inch equals two thousand feet (1"= 2,000'), showing the location of the Private Street, any access roads and cross streets, road names, scale, and a north arrow.
4. Existing topography at two (2) foot contour intervals for the portions of the site sufficient to determine drainage from the Private Street easement to a suitable storm water outlet.
5. Proposed improvements (including but not limited to, roads, sewers, and ditches) shown on plan and profile indicating all materials, grades, dimensions, and bearings in compliance with the standards set forth in this Ordinance relative to Private Streets. The plans shall also show all existing and proposed grades, the location of all existing and proposed drainage facilities, the location of existing and/or proposed utilities and structures, other structures, physical or natural conditions existing adjacent to such improvements, and any connections to existing public and Private Streets.
6. The plan shall delineate the proposed way(s) and each of the lots to be served by the private way(s), the location of existing buildings on the lots or parcels being served or intended to be served by the private way(s), as well as, any existing buildings or structures in or adjacent to any proposed road right-of-way. Lots shall conform to zoning requirements for size, frontage, and setbacks for the area in which they are located. The land within the right-of-way of an approved Private Street shall not be used to meet the area requirements of any lot obtaining frontage from the Private Street.
7. A street plan and an erosion control plan is required for a single lot Private Street. A street plan, cross section, erosion control, utility plan, and drainage plan shall be submitted for each private way serving two or more lots. The utility plan should contain the following information: locations and size of existing and proposed utility connections, including sewer, water, power, telephone, stormwater drainage systems, power poles, light poles, and nearest hydrant(s).
8. A complete statement of all the terms and conditions of the proposed road easement, including copies of all agreements or intended agreements regarding the maintenance and improvements of the right-of-way and roadway. Agreements shall include authorization from servient land owners allowing for any intensified or other use of the right of way. Furthermore, said maintenance agreements shall be in such form to be recordable with the Penobscot Registry of Deeds and shall specifically address the liability and responsibility of the parties to said agreement to maintain the Private Street pursuant to the specifications of this Article, including, but not limited to, the responsibility of removing snow from said roads. The recorded statement which runs with the land, shall also inform subsequent purchasers that the road is private and may never be maintained or accepted by the Town of Hampden. *(Amended 07-06-16)*
9. The plan shall bear notes that the Town of Hampden will not be responsible for the maintenance, repair, or plowing of the private way and that further lot divisions utilizing the private way are prohibited without prior approval of the Planning Board.

10. Appropriate deed restrictions and/or master deed provisions shall provide for free and clear vehicular access for emergency service vehicles on all private roads. All Private Streets shall comply with the Town of Hampden E911 Addressing Ordinance.

ARTICLE 400
IMPROVEMENT GUARANTEES

410. Improvement Guarantees Required

Before the submission of a Final Plan, the subdivider in all major subdivisions as defined in Article 1024 shall provide the town with improvement guarantees, in the form of one or more of the guarantee options listed below in an amount that will cover at least one hundred (100) percent of the cost of completing the improvements, including sewer, water, storm drainage, or street work, should the subdivider fail to complete the required improvements or fail to complete them satisfactorily in accordance with the approved final subdivision plan. Furthermore, the subdivider shall guarantee the improvements against all defects from materials and/or workmanship for a period of one year from the date of acceptance thereof by the Town. *(Amended 02-12-02)*

420. Procedure

The subdivider shall file with the Town Manager a proposed improvement guarantee (including a written guarantee agreement) and the Town Manager shall determine whether the form, amount, and the duration of the improvement guarantee are sufficient. In the event the Town Manager refuses to approve the proposed improvement guarantee as filed by the subdivider, he/she shall so inform the subdivider and shall inform the subdivider of his/her reasons for rejecting the guarantee. This shall be done in writing. In the event the Town Manager approves the proposed improvement guarantee as filed by the subdivider, he/she shall notify the Planning Board. The Planning Board shall not grant final approval until it has received such notification from the Town Manager. The burden of submitting improvement guarantees in compliance with this Ordinance shall at all times remain with the subdivider. *(Amended 02-12-02)*

430. Time Limit

431. *Completion Deadline.* All required improvements within a major subdivision shall be completed within two (2) years of final subdivision approval. The improvement guarantee must provide performance protection to the town during said two-year period plus at least eighteen (18) months following the expiration of the two-year period. The additional eighteen-month period is required as protection to the town in the event the subdivider fails to complete the required improvements and for the one year guarantee period. *(Amended 02-12-02)*

432. *Extension.* The Town Manager may extend the completion deadline for two (2) additional years at one-year increments only where the subdivider presents substantial reason for doing so. No request for extension shall be considered until at least six (6) months prior to the original or extended completion deadline. Before extending the initial deadline or the initial extension, the Town Manager shall require that the improvement guarantee be extended in duration to cover the extended period of time, plus an additional eighteen month period. Before extending the initial deadlines, or the initial extension, the Town Manager shall review the form and amount of the improvement guarantee to make certain it remains adequate. *(Amended 02-12-02)*

440. Inspection and Certification *(Amended 07-06-16)*

441. Prior to the initiation of construction, a pre-construction conference will be held with the subdivider, Public Works Director, Hampden Water District (if applicable), Community and Economic Development Director and Code Enforcement Officer. Evidence of issuance of required state and local permits shall be provided by the subdivider at the time of the meeting.

442. The Town Manager or his/her duly appointed representative shall regularly inspect the construction of the required improvements for defects. The subdivider shall cooperate with the Town Manager or his/her representative who is carrying out these inspections. Upon completion of the improvements the Town Manager shall notify the subdivider and the Planning Board, in writing, that the improvements have or have not been satisfactorily completed according to the approved final subdivision plan. If the improvements have not been satisfactorily completed, the Town Manager shall provide a written list of the defects.

443. Upon completion of the improvements, the subdivider shall file the following with the Town Manager:

1. A statement from the subdivider's engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan; and that the engineer knows of no defects from any cause, in the improvements;
2. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.

444. No final inspection will be conducted by the Town Manager between November 15th and April 15th. This does not prohibit council acceptance of improvements inspected between April 15th and November 15th. (*Amended: 06-19-89*)

445. The costs of inspections, including the costs of review by a third party engineer if needed, shall be paid by the subdivider prior to the issuance of the certification of completion. The Public Works Director shall establish and determine the costs of inspection. If the subdivider does not directly pay the costs of inspection, the same shall be paid from the deposit established by the Public Works Director and held by the Town, and the balance, if any, shall be returned to the subdivider.

446. Private Streets need to be inspected by the Town's staff or designee during the construction process. If the owner did not include the Town's staff in the construction process and wished to have the Private Street serve as frontage for one or more newly created lots at a later date, the owner would need to hire at the owner's expense a professional engineer licensed in Maine to inspect the roadway and to certify that the road has been constructed according to the Private Street standards in this Ordinance.

450. Release of Guarantee

As soon as the Town Manager or his/her authorized representative has inspected the improvements and certified that they are satisfactorily completed, the subdivider has filed the letter required in Section 442 of this Ordinance with the Town Manager, and the one year guarantee period has expired, the Town Manager shall release the previously required improvement guarantee to the subdivider. (*Amended 02-12-02*)

460. Reduction of Guarantee

1. When all required improvements have been substantially and satisfactorily completed, the Town Manager may release up to fifty (50) percent of the improvement guarantee. The improvement guarantee shall be reduced in value by no more than fifty (50) percent until all required improvements are satisfactorily completed.

2. Conditional acceptance may be authorized providing:
 - A. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.
 - B. The binder pavement layer is placed on all areas proposed to be paved.
 - C. The developer supplies the Town Manager with an improvement guarantee (article 410), documented by a written estimate from a reputable paving contractor, for the placement of the final finished pavement layer. Said guarantee shall be released in accordance with Section 450. *(Amended: 06-19-89)*
3. Upon acceptance of the improvements by the Town, the Town Manager shall release up to eighty-five (85) percent of the improvement guarantee, and shall release the remaining portion fourteen (14) months after acceptance of the improvements by the Town, unless the Town Manager has provided notice of a guarantee claim pursuant to Section 475, in which case the guarantee shall remain in place until any such claims have been resolved to the satisfaction of the Town Manager. *(Amended 02-12-02)*

470. *Incomplete or Unsatisfactory Work*

If the Town Manager determines, according to the procedures laid out in section 440 of this Ordinance, that the improvements have not been satisfactorily completed according to the accepted subdivision plan, within the agreed upon time, he/she shall inform the subdivider in writing of the town's intent to exercise its rights against the improvement guarantee, he/she shall exercise any and all such rights; and may cause the incomplete or unsatisfactory work to be completed. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work may be returned to the subdivider at the discretion of the town. *(Amended 02-12-02)*

475. *Defective Improvements.* If the Town Manager, or designee, determines that the improvements suffer from defective workmanship or materials, the Town Manager, or designee, shall notify the subdivider in writing of the defects by not later than 30 days after the expiration of the one year guarantee period. If the defects are not corrected to the satisfaction of the Town Manager within 60 days after the issuance of the notice to the subdivider, the Town Manager, or designee, shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee, shall exercise any and all such rights, and may cause the defective workmanship or materials to be corrected. Any guarantee assets unused in the correction of any defects may be returned to the subdivider at the discretion of the Town. *(Amended 02-12-02)*

480. *Improvement Guarantee Option*

481. *Performance Bond* - Under this improvement guarantee option, the subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The bond shall be payable to the Town of Hampden and shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager. *(Amended 02-12-02)*

482. *Property Escrow* - Under this improvement guarantee option, the subdivider shall provide as a guarantee personal property, including stocks and bonds. The value of such property shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager.

482.1. *Personal Property Escrow* - If personal property is proposed for the improvement guarantee, the subdivider must comply with the following requirements:

1. The subdivider shall provide the town with evidence of the value of the personal property satisfactory to the Town Manager.
2. The subdivider shall, at his/her expense, provide the town with a title opinion from an attorney, satisfactory to the town, that there exists no outstanding recorded security interest in said property; the subdivider shall provide the town with evidence, satisfactory to the Town Manager, of ownership of the proposed property.
3. The subdivider shall enter into an agreement with the town and execute a security interest in favor of the town, which shall be filed as required by law; said agreement shall provide that the ownership of the property shall be transferred to the town, unless the subdivider satisfactorily completes the required improvements in accordance with this Ordinance and with the approved final subdivision plan. Said agreement and security interest shall contain such additional provisions as may be required by the Town Manager.
4. In the case of stocks, bonds, or other securities, the subdivider shall deliver to the town or its designated trustee the original certificate for said security, together with a stock or bond power endorsed in blank by the subdivider authorizing the transfer of ownership on the books of the corporation. In the case of other personal property, the subdivider shall deliver to the town, or its designated trustee, the personal property together with a satisfactory security interest in such property.
5. In the case of stocks, bonds, or other securities, the Town Manager may require that the value of said securities exceed the estimated cost of the required improvements in order to protect the town from market fluctuations, or may at his/her option reject stocks, bonds or other securities that in his opinion do not provide the town with satisfactory security.

483. *Letter of Credit* - Under this improvement guarantee option, the subdivider shall provide, as a guarantee, an irrevocable letter of credit from a bank or other reputable institution satisfactory to the Town Manager, such letter of credit to be in form satisfactory to the Town Manager. The amount of such letter of credit shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager. The letter of credit shall be deposited with the Town Manager and shall certify the following:

1. That the creditor does guarantee funds in an amount equal to the costs as estimated for the subdivider by a registered professional engineer and approved by the Town Manager, of completing all required improvements;
2. That, in case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Hampden immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the limit of credit stated in the letter. (Amended 02-12-02)

484. *Cash Escrow* - Under this improvement guarantee option, the subdivider shall provide as a guarantee, cash held in an account at a bank or other reputable institution subject to the approval of the Town Manager. The amount of cash shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and approved by the

Town Manager. The subdivider shall enter into an agreement with the town that shall stipulate the terms under which a cash escrow may be accepted by the town.

ARTICLE 500
GENERAL REQUIREMENTS AND DESIGN STANDARDS

In considering applications for subdivisions of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Article 600 of this Ordinance.

510. General Requirements

511. *Conformity with other laws and regulations.* All proposed subdivisions shall be in conformity with the comprehensive plan of the Town of Hampden, as amended, and with the provisions of all pertinent state and local codes, ordinances, laws, and regulations.

512. *Character of the land.* Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. The Planning Board shall not approve such portions of any proposed subdivision that are located on land below sea level, within the one-hundred-year frequency floodplain, on wetland which must be filled or drained, on land created by diverting a watercourse, or on land subject to slumping, mass wasting, or land slides. In no instance shall the Planning Board approve any part of a subdivision located on filled tidal land.

513. *Soils* - Subdivisions which contain poor soils due to organic materials, clays, or seasonal high water table (less than 24 inches below grade) shall provide appropriate construction techniques, including but not limited to, underdrains and geotextiles in public road construction. The same construction techniques may be required of Private Streets if the Director of Public Works or his/her designee determines, based on inspection, that these techniques are needed based on soil quality. (*Amended: 10-04-93, 07-06-16*)

520. Lots

521. *Lots to be Buildable* - The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance there will be no foreseeable difficulties as a result of other natural conditions. Lots should not be of such dimension as to later encourage the creation of a second building lot out of the first. Land area delineated as freshwater wetlands, located between the upper edges of perennial or intermittent streams, or designated for stormwater detention facilities shall not be included as lot area for the purpose of the minimum lot area requirement applicable to the subdivision lots. (*Amended 10-03-05*)

Notwithstanding the provisions of this subsection, non-cluster Rural District lots comprised of less than two acres of upland may be approved if the Planning Board finds that the lot contains a minimum of one acre of generally contiguous upland area, not delineated as freshwater wetlands, and determines that the lot is suitable for development. (*Amended 10-03-05*)

Notwithstanding the provisions of this subsection, commercial and industrial subdivisions are exempted from this provision. (*Amended 02-12-02*)

522. *Side Lines* - All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a waiver from or modification of this rule will give a better street or lot plan.

Notwithstanding this subsection, variations to the right angle/radial of the street line are encouraged where the Planning Board determines that variations of no more than 20 degrees will improve the layout of the lots by meeting one or more of the following objectives: Simplification of lot layouts by elimination of unnecessary property corners, foster creation of parallel side lot lines, foster improved solar access, accommodation of pre-existing features such as perimeter property lines or natural physical features such as wetlands and drainage ways. It is not the intent of the side lines rule to promote the placement of additional pins and monuments located in close proximity to the front property line. *(Amended 10-03-05)*

523. *Corner Lots* - In general, corner lots should be larger than interior lots to provide for proper building setback from each street and to provide a desirable building site.

524. *Lot Frontage* - Lot frontage shall be deemed acceptable only if it is on a road or street as defined in the Hampden Zoning Ordinance, or on a Private Street approved and constructed pursuant to the standards in this Ordinance. Tie lines must be shown at the front setback line to demonstrate that the lot meets the frontage requirement of the zoning district at the setback unless the lot frontage exceeds the minimum frontage requirement by at least five feet. *(Amended 10-03-05, 07-06-16)*

530. Drainage Requirements

531. *General* - The subdivider will be required to provide surface water and storm drainage management facilities appropriate to the finished subdivision. The following requirements must be met for both minor and major subdivisions. Minor subdivisions of single family dwellings in the Rural District and Private Street Subdivisions are exempt from the following requirements.

1. A storm water management system will be designed to infiltrate, detain or retain water falling on the site during a design storm, such that the post-development peak discharge and runoff shall not exceed the peak discharge and runoff from the site prior to the development.
2. Pipe systems shall be designed to pass the peak discharge of a ten-year frequency, twenty-four-hour duration storm. Open channel systems shall be designed to contain a design storm. In addition, areas expected to be flooded by the design storm will be indicated on the plans, and be considered part of the drainage and storm water management system.
3. The storm water management system will take into consideration the upstream discharge and runoff which must pass over or through the development site. The system will be designed to pass upstream discharge and runoff, generated by the design storm, through the proposed development without overloading the system or flooding areas not specifically planned for such flooding.
 - A. The surface water and stormwater management system shall be designed so that no water shall be stored in any ditches or drainage ways located along streets or roads during a 10 year, 24 hour storm event. *(Amended 02-12-02)*
4. Urban development which provides public sewer and water service shall be designed to handle storm water drainage by means of an enclosed system with catch basins. Where necessary to control storm water, asphalt curbing may be required.
5. Materials and Installation

- A. Pipe Culverts and Storm Drains - Shall conform to Section 603 of the Maine Department of Transportation (MDOT) Standard Specifications for Bridges and Highways, 1990 or current version.
 - B. Manholes and Catch Basins - Shall conform to Section 604 of the MDOT Standard Specifications for Bridges and Highways, 1990 or current version.
- 6. Drain inlet alignment shall be straight in both horizontal and vertical alignment, unless specific approval of a curvilinear drain is obtained in writing from the Public Works Director. *(Amended 07-06-16)*
 - 7. Manholes/catch basins shall be provided at all changes in vertical and horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.
 - 8. Upon completion, each catch basin or manhole shall be cleaned of all accumulated silt, debris, or foreign matter until public acceptance. *(Amended: 10-04-93)*

532. *Approvals* - Applications for approval of all proposed subdivisions shall include documentation that demonstrates that there will be no unreasonable effects on runoff/infiltration relationships. This documentation shall include the following, as appropriate:

- 1. The proposed storm water management system shall be designed by a professional engineer experienced in the design of storm water systems. The designer of the system will evaluate the effectiveness of various storm water methods and develop and make available for review the hydraulic calculations. These calculations will be based on accepted engineering practices and must demonstrate that the requirements of section 531 will be met.
- 2. Where permanent embankment-type storage or retention basins are planned, the basins shall be designed in accordance with good engineering practices, such as outlined in the current Soil Conservation Service Engineering Field Manual or other appropriate references.
- 3. Rights-of-way or easements will be designated for all components of the drainage and storm water management system lying outside the established street lines. Stormwater detention facilities shall not be located on lots but on separate parcels to be conveyed to the town or provided for by easement to include provisions for suitable annual maintenance by the town, if for a Public Street, or by a private party, if for a Private Street. All rights-of-way and easements for drainage and storm water management facilities for Public Streets will be turned over to the town upon town acceptance of the road(s). Notwithstanding the provisions of this subsection, commercial and industrial subdivisions, and Private Street Subdivisions, are exempted from the provision requiring that stormwater detention facilities be separated from lots and conveyed to the Town. *(Amended 02-12-02)(Amended 07-06-16)*
- 4. The developer shall certify in writing that all components of the storm water management system will be maintained until the system is formally accepted by the municipality or a quasi-municipal district, or is placed under the jurisdiction of a legally created association that will be responsible for the maintenance of the system.
- 5. The storm water management system will be fully coordinated with the project site plans, including consideration of street patterns, pedestrian ways, open space, building siting, parking areas, recreational facilities, and other utilities. Stormwater drainage channels shall be directed to run along property lines to avoid driveway and other utility crossings. *(Amended 02-12-02)*

6. When the construction of a development is to occur in phases, the planning of the storm water management system shall encompass the entire site which may ultimately be developed, and shall not be limited to an initial or limited phase of the development. *(Amended: 11-18-85)*

540. *Open Space and Recreation Land* - All major subdivisions shall be required to set aside land for open space and recreation or to provide cash in lieu of land. The primary intent of this section is to provide open space and recreation land in all areas of the community. It is understood that not all developments will have land suitable for open space or recreation within their boundaries, therefore this section is designed to be as flexible as possible. To that end, this section shall allow the provision of off-site open space and recreation areas, and cash in lieu of land. In cluster development, the cash in lieu of land provision shall not apply. *(Amended 07-06-16)*

541. *Approval Authority* - The Planning Board shall approve the means of meeting this requirement.

The Hampden Conservation Committee and Recreation Committee shall be given opportunity to make written recommendations to the Planning Board on all open space proposals within forty-five (45) days of receiving notice. Where land is to be dedicated to the town, or otherwise requires action of the Town Council, the Planning Board shall require the subdivider provide documentation as to the Town Council's decision as provided in 545.2. *(Amended: 05-20-96)*

542. *Area Required* - The area of land set aside shall be based on the open space requirements of the Zoning Ordinance. If no open space requirement exists in the Zoning Ordinance, the applicant shall be required to provide land in accordance with the following: 500 square feet per unit, or five (5) percent of the parcel to be developed, whichever is greater.

Exception: No open space dedication is required in Private Street Subdivisions or in Minor Subdivisions (four lots or less) in the Rural District if the total aggregate area of the proposed lots exceeds the minimum lot area required in the Zoning Ordinance by at least 10 percent. No fee in lieu of open space is required for subdivisions that satisfy this exception. The intent of this exception is to avoid creating very small open spaces that do not serve the interests of the subdivision or the Town while maintaining the densities that the ordinances contemplate. This exception shall also apply to further division of lots in previously approved subdivisions. *Amended 7-14-2014, Effective Date 8-13-2014 (Amended 07-06-16)*

543. *Standards for Land* - The purpose of this section is to provide for permanent open space. The subdivider may offer dedicated land, conservation easements, or other means to meet the requirements of this section. These areas shall be in locations designated as open space or green belts in the Comprehensive Plan. Land dedicated to permanent open space shall be in such condition, size and shape as to be readily usable for recreation or conservation. *(Amended: 05-20-96)*

1. Where the open space requirement is in excess of ten (10%) percent of the land to be subdivided, the subdivider may elect to provide land identified in the Open Space and Recreation Plan, if one exists. Where off-site open space is proposed, the following standards apply:
 - A. Ten (10%) percent shall be provided within the subdivision.
 - B. The off-site open space shall be within one (1) mile of the subdivision.

- C. The off-site open space shall have been previously designated in the Open Space and Recreation Plan.
- D. The subdivider shall provide proper right, title or interest to the off-site land.

544. *Standards for Cash-in-Lieu of Land* - Where cash in lieu is proposed, the following standards shall apply.

- 1. At the time of Final Plan submission, the subdivider shall contribute to the Town of Hampden \$400/lot, \$200/unit or \$200/acre, whichever is greatest.
- 2. All monies placed in this fund shall be used for the purchase or development of open space or recreation land.
- 3. Land purchased or developed with these funds shall be located to serve the needs of the residents of the subdivision. *(Amended: 06-03-91)*

545. *Provisions for Ownership and Maintenance of Open Space or Recreation Areas* - If land is to be set aside under the provisions of this section, the subdivider shall make provisions for the permanent ownership, protection and maintenance of such land. The means for insuring the open space will be available in perpetuity shall be:

- 1. Retain ownership and responsibility for maintenance of such land; or
- 2. Dedicate such land to public use if the town or another public agency has indicated it will accept such dedication. If the subdivider proposed that the town accept the land, the subdivider must provide the planning board, as part of the final plan, with a copy of the minutes of the meeting of the Town Council, attested by the town clerk, in which the Town Council agreed to accept such land; or
- 3. Provide for and establish one or more organizations for ownership and maintenance of such land. Such organization shall be either a nonprofit homeowners' corporation or a community open space trust. If such organization is formed, it shall be formed and operated in accordance with the following rules:
 - A. The organization shall be formed by the developer and be operating, with financial subsidization by the developer if necessary, before the sales or lease of any lots or units within the development.
 - B. Membership in the organization is mandatory for all purchasers of units therein and their successors.
 - C. The organization shall be responsible for maintenance of common open spaces and property. It shall also be responsible for insurance and taxes on common open space and property.
 - D. The members of the organization shall share equitably the cost of maintaining and developing common open space and property in accordance with written procedures established by them. *(Amended: 09-21-87, 06-03-91)*

546. *Provisions for Ownership and Maintenance of Private Streets* – In a Private Street Subdivision, the subdivider shall make provisions for the permanent ownership, protection and maintenance of such Private Street(s). The means for insuring the Private Street(s) will be maintained in perpetuity shall be:

1. Subdivider may retain ownership and responsibility for maintenance of such Private Street(s);
or
2. Subdivider shall provide for and establish one or more organizations for ownership and maintenance of such Private Street(s). Such organization may be a nonprofit homeowners' corporation or other organization as approved by the Planning Board. If such organization is formed, it shall be formed and operated in accordance with the following rules:
 - A. The organization shall be formed by the subdivider and be operating, with financial subsidization by the subdivider if necessary, before the sales or lease of any lots or units within the development.
 - B. Membership in the organization is mandatory for all purchasers of units therein and their successors.
 - C. The organization shall be responsible for maintenance of Private Street(s) in the subdivision. It shall also be responsible for insurance, as needed, for Private Street(s) in the subdivision.
 - D. The members of the organization shall share equitably the cost of maintaining Private Street(s) in the subdivision in accordance with written procedures established by them.
(Amended 07-06-16)

550. Street Standards

551. *Layout of Streets* - All streets in a subdivision shall be planned so as to meet the following standards:

1. The proposed streets shall conform, as far as practical, to the adopted Comprehensive Plan or policy statement of the Town of Hampden.
2. All streets in the subdivision shall be designed so as to provide safe vehicular travel and, in minor streets and Private Streets, shall be designed so as to discourage movement of through traffic. (Amended 07-06-16)
3. The arrangement of streets in a major subdivision shall provide for the continuation of arterial and collector streets into adjoining unsubdivided land unless topographic or other factors make continuance impracticable or undesirable. Where a subdivision is served by a minor street, the Planning Board may require that a right-of-way or the minor street be projected to adjacent unsubdivided land when the board finds that such a projected street would be in keeping with the land use goals for the area and with sound planning practice.
4. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the town under conditions approved by the Town Council.

5. Intersections of streets shall be at angles as close to ninety (90) degrees as possible. In no case shall two (2) streets intersect at an angle of less than sixty (60) degrees.
6. A distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets.
7. Whenever possible, subdivisions containing fifteen (15) lots or more shall have at least two (2) street connections with existing public streets or streets shown on the official road map, if such exists, or streets on an approved Subdivision Plan.
8. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the preliminary and the final plan, marked "Reserved for road realignment (or widening) purposes". Land reserved for such purposes may not be counted in satisfying setback or yard or area requirements of the Zoning Ordinance.

552. Private Street Standards. All streets in a private subdivision shall be planned so as to meet the following standards: *(Amended 07-06-16)*

1. The design and construction of all Private Streets shall comply with this Ordinance relative to Private Streets, subject to the approval of the Planning Board.
2. Notwithstanding any other provisions of the Ordinance to the contrary, Private Streets in subdivisions platted prior to the enactment of this Ordinance and Private Streets that are contained in land divisions approved by the Town of Hampden prior to the enactment of this Ordinance, shall continue to meet the specifications approved at the time of application. Upon expansion, reconstruction, or major alteration of an existing Private Street, new construction shall comply with then-current requirements of Private Streets.
3. Intersections of streets shall be at angles as close to ninety (90) degrees as possible. In no case shall two (2) streets intersect at an angle of less than sixty (60) degrees.
4. A distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets.
5. The applicant will provide a stop sign and street name sign meeting Town specification at the intersection with the public street.

553. *Design and Construction Standards for Streets Eligible for Public Acceptance* - All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification as determined by the Planning Board. (Amended 07-06-16)

Design and Construction Standards for Streets

<u>Item</u>	<u>Collector</u>	<u>Minor</u>
1. Minimum right-of-way width	66 ft.	66 ft.
2. Minimum pavement width	24 ft.	20 ft.
3. Minimum grade	0.5%	1.0%
4. Maximum grade	8%	8%
5. Maximum grade at intersection 3% Within feet from intersection	75 ft.	50 ft.
6. Minimum centerline radii on curves	200 ft.	100 ft.
7. Minimum tangent length between reverse curves	200 ft.	100 ft.
8. Depth of subgrade grading	22 in.	22 in.
9. Sub base gravel depth	18 in.	18 in.
10. Upper base gravel	4 in.	4 in.
11. Pavement (see 552 item 2)		
A. Grade B	2-1/2 in.	2-1/2 in.
B. Grade C	1-1/2 in.	1-1/2 in.
C. Total thickness	4 in.	4 in.
12. Minimum road crown-centerline to edge of pavement.	3 in.	3 in.
13. Minimum shoulder width on each side of road.	2 ft.	2 ft.
14. Sidewalks		
A. Minimum width	5 ft.	4 ft.
B. Gravel base course	6 in.	6 in.
C. Surface pavement	2 in.	2 in.

<u>Item</u>	<u>Collector</u>	<u>Minor</u>
15. Dead-end or cul-de-sac streets		
A. Completely paved Radii of turn around at enclosed end		
i. Right-of-way boundary minimum	60 ft.	50 ft.
ii. Outside pavement radius - min.	40 ft.	35 ft.
B. With island (see #26)		
i. Right-of-way boundary – min.	65 ft.	55 ft.
ii. Inside pavement radius	26 ft.	25 ft.
iii. Outside pavement radius	50 ft.	49 ft.
iv. Minimum pavement width	24 ft.	24 ft.
<i>(Amended: 10-03-05)</i>		
C. Temporary (See #27)		
i. Radii at Right-of-way - min.	50 ft.	50 ft.
ii. Gravel turn around minimum	40 ft.	40 ft.
<i>(Amended: 12-04-95)</i>		
16. Minimum pavement curb radii at intersections and where street meets cul-de-sac 20 ft. <i>(Amended: 10-03-05)</i>		
17. Grade of streets should conform as closely as possible to the original relief of the land.		
18. All changes in grade shall be connected by vertical curves such as will provide clear visibility for a distance of two hundred (200') feet.		
19. Side slopes shall not be steeper than three (3') feet horizontal and one foot vertical, graded, loamed (six [6] inches compacted) and seeded. If the side slope extends outside the required right-of-way, the subdivider shall expand the right-of-way to include the entire side slope area.		
20. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water. Driveway culverts shall be adequate to pass the design flow of the contiguous ditches.		
21. In construction of roads, the paved area, sidewalk, and shoulder shall be cleared of all stumps, roots, brush, perishable material, and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from the roadway to at least subgrade depth, or as directed by the Town Manager.		
22. The roadway area shall be brought to the grade shown on the plan, profile and cross-section, by suitable gravel. The subbase gravel shall meet the specifications for aggregate subbase courses as contained in the current edition of "The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation". The upper base gravel shall meet the specifications for aggregate base courses in the same standards.		
23. For Public Streets, after the upper base gravel has been thoroughly rolled, the surface of the roadway shall be paved. The pavement material and the manner of application of such shall conform to the requirements of the current edition of "The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation". <i>(Amended 07-06-16)</i>		
24. The Planning Board may require curbing of roads in a subdivision including one or more Public Streets. <i>(Amended 07-06-16)</i>		

25. Where a green space is planned in the interior of a cul-de-sac, existing vegetation should be preserved where possible. Any proposed landscaping shall be of a type which requires limited maintenance. *(Amended: 12-04-95)*
 26. Where a proposed street may be extended, the Planning Board may authorize a temporary cul-de-sac. Temporary cul-de-sacs shall provide an escrow account for a period of five (5) years to cover the cost of paving, which is renewable in five (5) year increments. Access shall be prohibited from a temporary cul-de-sac. *(Amended: 12-04-95)*
554. *Design and Construction Standards for Private Streets* - All streets in a Private Street Subdivision shall be designed and constructed to meet the following standards: *(Amended 07-06-16)*

Design and Construction Standards for Private Streets

<u>Item</u>	<u>Private</u>
1. Minimum right-of-way width	66 ft.
2. Minimum roadway travel width	20 ft.
3. Minimum pavement width	Not Required
4. Maximum grade	8%
5. Maximum grade at intersection Within 75 feet from intersection	3%
7. Minimum centerline radii on curves	150 feet
8. Minimum tangent length between reverse curves	100 ft.
9. Subbase course (heavy gravel) MDOT Type D <i>(May be waived if pre-existing street)</i>	18 inches
10. Base course (crushed gravel MDOT Type A) <i>(May be waived if pre-existing street)</i>	4 inches
11. Pavement	Not Required
12. Minimum road crown-centerline to edge of pavement.	N/A
13. Minimum shoulder width on each side of road (if paved)	2 feet
14. Sidewalks	Not Required
15. Turnaround at dead-end	Hammerhead or T

See Sample Cross Section for Private Street Subdivision.

555. *Utilities in Streets* - In a major subdivision, the Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and the street right-of-way line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved. In a Private Street Subdivision, the owner or owners shall convey, where applicable, an easement to the Town, described by metes and bounds, for sewer purposes over the entire right-of-way, and shall convey, where applicable, an easement to the Hampden Water District, described by metes and bounds, for water purposes over the entire right-of-way, and shall record both easements, as applicable, in the Penobscot County Registry of Deeds. *(Amended 07-06-16)*

556. *Street Names*

1. Proposed street names shall be substantially different from existing street names so as not to be confused in sound or spelling.
2. If proposed streets are extensions of existing streets they shall carry the same name.
3. Generally no street should change direction by more than ninety (90) degrees without a change in street name.
4. In general, streets shall have names, not numbers or letters. *(Amended: 09-21-87, 06-19-89)*

560. *Utilities*

561. If public water and/or sewer is proposed, the system shall be designed so as to accommodate any development which can reasonably be expected to tie into the system. In determining the amount of reasonably expected development, the Planning Board shall consider existing land use, existing zoning, the character of the land, topography, and existing constraints to development (such as boggy areas), the carrying capacity of the land and of existing municipal services, and the town's Comprehensive Plan or sewer and water plan. If the system has to be built so that it is larger than would normally be required under conditions of the maximum utilization of the subdivider's contiguous land (including land on opposite sides of streets), the town will pay the difference in cost for the larger pipes. The subdivider must cover all other expenses.

562. The subdivider shall install any new public utility system according to the approved Subdivision Plan. If either the public sewer or water system follows a course which is not collinear with the road network, the Planning Board shall require that the subdivider provide the Town of Hampden or the Hampden Water District with a utility easement.

563. If individual wells are proposed for the subdivision, the Planning Board may require that the subdivider's engineer certify that sufficient water is available for the reasonable foreseeable needs of the subdivision.

564. If subsurface sewage disposal is proposed, the Planning Board shall require that the subdivider provide proof that a subsurface sewage disposal system which is in conformance with the Maine State Plumbing Code can be installed on every lot.

565. Pump stations shall not be used in the construction of sewer systems in any proposed development with the Town of Hampden, Maine, except as permitted under the Town's Sewer Ordinance. *(Amended: 03-07-88) (Amended 08-06-07)*

570. *Buffer Strip* - The Planning Board may require a buffer strip when a proposed major subdivision will be located adjacent to a use where separation is desirable. *(Amended 07-06-16)*

**ARTICLE 600
WAIVER AND MODIFICATIONS OF THESE REGULATIONS**

610. Where the Planning Board finds that extraordinary and unnecessary hardship may result from strict compliance with these regulations, or where there are special circumstances of a particular plan, it may waive any of these regulations provided that such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, the Zoning Ordinance, or any other ordinance. Upon recommendation of the Planning Board, fees may be adjusted or waived only with the approval of the Hampden Town Council.

620. In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. *(Amended: 12-01-86)*

**ARTICLE 700
VALIDITY, EFFECTIVE DATE, CONFLICT OF ORDINANCES, AND FILING**

710. Should any section or provision of this ordinance be declared by the courts to be invalid, such section shall not invalidate any other section or provision of these regulations, and to this end, the provisions of this ordinance are hereby declared to be severable. *(Amended 07-06-16)*

720. The effective date of this ordinance is June 17, 1982 *(Amended 07-06-16)*

730. These regulations shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, ordinance, permit, or provision of law. Where these regulations impose a higher standard for the protection and promotion of health and safety, the provisions of this ordinance shall prevail. *(Amended 07-06-16)*

740. A copy of this ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. *(Amended 07-06-16)*

750. The Subdivision Ordinance of the Town of Hampden as adopted at the annual meeting March 3, 1970 and as amended, is hereby repealed.

**ARTICLE 800
AMENDMENTS**

810. *Initiation of Amendment* - An amendment to this Ordinance may be initiated by:

1. The Planning Board, provided a majority of the Board has so voted;
2. Request of the Town Council to the Planning Board; or
3. Written petition of ten (10%) percent of the registered voters of the town.

820. *Proposed Amendments* - All proposed amendments shall be referred to the Planning Board for their recommendation. Such recommendation shall be returned to the Council within thirty (30) days.

830. *Adoption of Amendment* - For an ordinance change to be adopted, it must be approved by a majority vote of the Town Council if the change has been recommended by the Planning Board. If the change has not been recommended by the Planning Board, a two-thirds vote of the Town Council will be necessary to adopt it.

**ARTICLE 900
APPEALS**

An appeal may be taken, within thirty (30) days from the Planning Board's decision on the Final Plan, by any party to Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.

**ARTICLE 1000
DEFINITIONS**

1010. Words and terms not defined in section 1020 shall have the meanings given them in the Zoning Ordinance of the Town of Hampden, or in the absence of definitions in said Ordinance, such words and terms shall have their customary dictionary meanings.

1020. The following words and terms, for the purpose of this Ordinance, shall be designated as follows:

1021. *Subdivision.* "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5 year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5 year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units with a 5 year period.

1. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:
 - A. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in

Title 36, M.R.S.A. Section 1102, for a period of at least 5 years before the 2nd dividing occurs; or

- B. The division of the tract or parcel is otherwise exempt under this definition.
2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot(s) in reviewing a proposed subdivision created by a subsequent dividing.
 3. A lot of 40 or more acres shall not be counted as a lot, except:
 - A. When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in the Hampden Zoning Ordinance, or any superseding state statute.
 4. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, or by the transfer of any interest in land to the owner of land abutting that land, does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.
 5. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.
 6. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.
 7. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph D, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transfer is to avoid the objectives of this Ordinance.

Exceptions

This Ordinance does not apply to:

1. Previously approved subdivisions. Proposed subdivisions approved by the Planning Board before September 23, 1971, in accordance with laws then in effect;
2. Previously existing subdivisions. Subdivision in actual existence on September 23, 1971, that did not require approval under prior law; or

3. Previously recorded subdivision. A subdivision, a plan of which had been legally recorded in the Penobscot County Registry of Deeds before September 23, 1971.
(Amended: 02-07-94)

1022. *Private Street Subdivision* – A subdivision which includes construction of one or more Private Streets, and does not involve the construction or reconstruction of a Public Street. (Amended 07-06-16)

1023. *Tract or parcel of land* - All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

1024. *Minor Subdivision* - A subdivision with less than five (5) lots which does not involve the construction or reconstruction of a new street, or the extension of public sewer lines, or the extension of public water lines, or the construction of a storm drainage system.

1025. *Major Subdivision* - A subdivision which is not a minor subdivision or a Private Street Subdivision. (Amended 07-06-16)

1026. *Street or Road* - Shall mean a right-of-way, intended for motorized traffic, in the Town of Hampden, which is either:

1. Owned, established, and maintained by the Town of Hampden, the County of Penobscot, or the State of Maine; or
2. Is shown on a plan of a subdivision which has been duly approved by the Hampden Planning Board and recorded in the Penobscot County Registry of Deeds.

1027. *Minor Street* - A street which serves primarily as an access to abutting properties.

1028. *Collector Street* - A street which connects one or more minor streets with an arterial street.

1029. *Arterial Street* - A street which serves heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas.

1030. *Design Storm* - A storm with a frequency or recurrence interval of twenty-five (25) years and a duration of twenty-four (24) hours.

1031. *Private Street (or Road)* – A Street within a deeded right-of-way that provides access to more than one principal structure and is privately owned and has not been dedicated to public use other than access by emergency and public safety vehicles, and is maintained by its private owners. A Private Street (or Road) shall be protected by a permanent easement which shall conform to the Road Classification Standards Table and which shall be shown on the plan. The limits of a private way shall begin from the edge of the traveled way of a Public Street and all associated sub roads that spur off from this road. Maintenance of this right-of-way area shall be the responsibility of the homeowner's association. (Amended 07-06-16)

1032. *Public Street (or Road)* - A public or dedicated right-of-way, which affords the principal means of vehicular access to abutting property and which is under public ownership or control. (Amended 07-06-16)

1033. *Pump Stations* - For the purpose of this Ordinance, pump stations shall be defined as any device intended and designed for the purpose of transporting, pumping or lifting of sanitary sewage from residences, commercial institutions or central collection points to the municipal sanitary sewer system. This shall not include lift pumps used in self-contained, on-site subsurface disposal systems. (Amended: 11-18-85, 9-19-88)

1034. *Freshwater Wetland* - Freshwater Swamps, marshes, bogs and similar areas which are:

1. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
2. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection. For the purposes of this Ordinance, "wetland" shall mean the same as freshwater wetland. Freshwater wetlands shall be delineated in accordance with the current authorized federal manual, unless the Planning Board approves a different delineation method. (Amended: 12-20-93)

1035. *Dwelling Unit* - "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, apartments and time-share units. (Amended: 02-07-94)

1036. *New Structure or Structures* - "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this Ordinance. (Amended: 02-07-94)

